

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

February 14, 2005
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Noble, and Councilmembers Balducci¹,
Chelminiak, Davidson, Degginger, and Lee

ABSENT: None.

1. Executive Session

At 6:01 p.m., Deputy Mayor Noble opened the meeting and announced recess to Executive Session for approximately 30 minutes to discuss two items of potential litigation.

The meeting resumed at 6:24 p.m. with Mayor Marshall presiding.

2. Oral Communications

- (a) Siri Betcher explained that she spoke with City staff on December 10, 2004, regarding her interest in submitting a Comprehensive Plan Amendment (CPA) docket suggestion to subdivide her lot. At that time, she was not advised of the deadline for submitting the CPA application. She visited City Hall on February 11 and was surprised to learn that she missed the deadline of January 31, 2005. She then spoke with Emil King, who indicated his department has not yet started the CPA docket review. Ms. Betcher asked Council to allow her to submit her CPA docket suggestion within the next week.

Responding to Mayor Marshall, City Manager Steve Sarkozy said staff will provide a report and recommendation for Council regarding the request.

- (b) Corinna Harn, Chief Presiding Judge, King County District Court, said King County is interested in pursuing a joint court facility in Bellevue. Strategic recommendations to be published by the District Court Operational Master Plan Steering Committee will reflect a strong commitment to continuing to contract with Bellevue and other cities with locations convenient to King County. County Executive Ron Sims has expressed his support for

¹ Ms. Balducci arrived at 6:03 p.m.

continuing contracts as well. Judge Harn described court services enhancements including an electronic court records system, an interactive meeting system, the capability for police officers to file their tickets at any court location, and access to other records including mental health and domestic violence courts.

- (c) Heather Trescases, Eastside Heritage Center, invited Council and the public to a lecture on Thursday, February 17, at the Winters House regarding Eastside radio and communications history.

3. Study Session

- (a) Update on New City Hall Project

Resolution No. 7142 ratifying the signature of the City Manager on the Settlement Agreement with Lease Crutcher Lewis related to the GC/CM contract for the New City Hall, and authorizing execution of amendments to the GC/CM contract consistent with the provisions of the Settlement Agreement.

City Manager Steve Sarkozy explained that recent bid packages received by Lease Crutcher Lewis, General Contractor/Construction Manager for the New City Hall, exceed the guaranteed maximum construction price for the project by \$11.3 million. While the City and general contractor disagree regarding who is responsible for the excess costs, both have a desire to complete the project as quickly and inexpensively as possible.

Planning and Community Development Director Matt Terry recalled that the alternative public works procurement process authorized by state law allowed the City to hire a General Contractor/Construction Manager (GC/CM) early in the process. The City selected the GC/CM approach to obtain private-sector construction expertise for this complex remodeling project. The contractor was hired early in the process to provide construction management expertise in order to reduce costs and manage risks, as well as to provide a guaranteed price for the construction. Under the GC/CM arrangement, the contractor is responsible for all phases of bidding, subcontractor selection, and construction. Lease Crutcher Lewis was selected because of its track record with complicated projects and outstanding record of accomplishment with major building projects.

Mr. Terry reviewed progress to date. The maximum allowable construction cost (MACC) of \$71.2 million was adopted by Council in June 2004. In July, Lewis solicited bids for demolition, early construction, seismic upgrades, excavation and construction of a new parking garage, and some elements of closure including the terra cotta curtain wall in the concourse. Excavation work began in August. In October, SRG Partnership (Architect) completed final design documents for the interior. Lewis reviewed the documents and solicited bids for the remaining work in December.

In January 2005, Lewis received 14 subcontract bids for remaining work totaling \$11.3 million above Lewis' guaranteed price. Use of the project's bid contingency leaves \$9.4 million in cost overruns. The cost increases affected every bid package for all types of work including

elevators, millwork, electrical, mechanical, drywall, metal panels, flooring, doors, and hardware. Every bid package exceeded Lewis' cost estimates.

Mr. Terry said the City's position is that Lewis guaranteed a maximum construction cost and is therefore responsible for the increased costs. Lewis argues that unprecedented market escalation in prices was not contemplated in their guaranteed price. Lewis and the City agreed to develop a settlement agreement now to allow completion of the project. Mediation will be pursued in the future to settle final responsibility for the increased costs.

The settlement agreement specifies that Lewis will complete the project by December 23, 2005. The original completion date for the majority of the project was November 11, 2005. Lewis agrees to pay costs associated with the delayed completion. However the City will pay December rent in its current building, which was not contemplated in the original project budget. The settlement agreement includes incentives to save project contingency funds already in the budget and sets forth the mediation process. Both parties will work over the next 60 days to select a mediator. The mediation process will begin in October and extend through mid-November 2005.

Staff recommends Council not take any action to amend the financial plan until the mediation process is completed. Mr. Terry said staff recommends two actions to reduce the costs of the subcontractor bids: 1) additional value engineering efforts, and 2) reductions or deferrals in project scope. He noted possible reductions in scope listed on page 3-13 of the Council packet. Staff further recommends that Council consider deferring items that will not affect the construction schedule until mediation is completed. Attachment 3 on page 3-15 provides revenue and financing options for future consideration by Council, if necessary.

If Council approves the settlement agreement, staff will continue to focus on completing the project as well as on implementing cost reduction strategies and controlling future costs and the schedule. Staff will prepare for mediation in the fall and work to resolve move-in issues including parking strategy, food service, service delivery planning, and the meeting room booking policy. Staff will move to the new building in late December 2005 or early January 2006.

Mr. Terry said construction by GLY, the primary construction contractor, and subcontractors is going extremely well. Work underway is on schedule. Mr. Terry reviewed photos of the work to date.

Mr. Terry requested Council action to ratify the settlement agreement and to direct staff to implement value engineering, scope reduction, and scope deferral activities.

Councilmember Degginger characterized the agreement as an agreement to complete the project rather than a settlement agreement. Mr. Degginger wants the public to understand that nothing is settled in the contract. However, staff is committed to completing the project.

Dr. Davidson expressed his frustration with cost overruns that tend to occur on government projects. He noted Council's early efforts to avoid this by choosing the GC/CM approach and agreeing to a guaranteed construction cost.

Responding to Deputy Mayor Noble, Mr. Terry said staff needs Council direction for the project team to pursue and implement value engineering measures, as determined to be appropriate. Any changes affecting the appearance or function of the building will be brought back for Council approval.

Responding to Mr. Chelminiak, Mr. Terry said the examples of scope reductions on page 3-13 of the Council packet are not considered by staff to change the appearance or function of the building.

Mr. Chelminiak is frustrated that a guaranteed price was set in June and bids significantly increasing project costs occurred not too long after that. In terms of the revenue and financing options, Mr. Chelminiak is opposed to the extraordinary sales tax option but is open to some of the other alternatives listed, if they become necessary.

Responding to Mr. Lee, Mr. Terry said the mediation process is non-binding and Council will ultimately decide whether to support the mediation results. Litigation is an option if mediation is unsatisfactory.

Mr. Lee supports the agreement as a way to continue moving forward toward a timely project completion.

Ms. Balducci shares Councilmembers' frustration and disappointment regarding project costs. However, she is pleased the contractor is agreeable to completing the project. She is comfortable with staff making project changes and reductions in scope with minimal impact but wants Council to be consulted regarding changes with a visible impact.

Responding to Mr. Degginger, Mr. Terry said staff will try to advise Council regarding subcontractor changes on a weekly basis.

Mayor Marshall noted consensus that Council would like to make decisions regarding the potential items of scope reductions listed in Attachment B. However, Council is comfortable with staff making scope reduction decisions involving items listed in Attachment 2.

- Deputy Mayor Noble moved to approve Resolution No. 7142, amended as follows:
1) Delete the word "settlement" wherever it appears and refer to the document simply as an agreement, and 2) Regarding potential changes and reductions in project scope, allow only those changes that do not affect the operation, visual appearance, or functionality of the project. Ms. Balducci seconded the motion.
- The motion to approve Resolution No. 7142, as amended, carried by a vote of 7-0.

(b) Stabilization of Projects in Coal Creek Basin

Resolution No. 7143 authorizing execution of a professional services agreement for the Coal Creek Projects Programmatic EIS with Tetra Tech/KCM Inc. in the amount of \$420,000 for engineering and analytical services. (CIP Plan No. D-102, Utilities Capital Investment Program Fund 4690).

Mr. Sarkozy recalled that a settlement agreement between the City, King County, Newport Yacht Club, and William Weinstein requires the City to undertake a series of stabilization projects in the Coal Creek basin to help address flooding, erosion, and sedimentation issues.

Utilities Director Brad Miyake said staff is requesting Council approval of Resolution No. 7143 to execute a professional services agreement with Tetra Tech/KCM Inc. for preparation of the Coal Creek Projects Programmatic Environmental Impact Statement (EIS). The EIS will cover six capital projects the City agreed to construct as part of the settlement agreement approved late last year. The cost of the EIS is \$420,000, which is currently funded under Capital Investment Program (CIP) Plan No. D-102.

- ➡ Deputy Mayor Noble moved to approve Resolution No. 7143, and Mr. Lee seconded the motion.
- ➡ The motion to approve Resolution No. 7143 carried by a vote of 7-0.

(c) Legislative Update

Diane Carlson, Director of Intergovernmental Relations, reviewed several bills on which she is seeking Council input. One is the Electronic Noticing bill (HB 1000) which was originally intended to allow notice of special meetings by written notice, FAX, or email. A subsequent amendment requires verification of receipt via FAX or email, or the sender will be required to pursue telephone verification of receipt. The City Clerk supported the intent of the original bill but feels the amendment puts an unsatisfactory burden on administrative staff.

Mayor Marshall agrees with the City Clerk regarding the original intent of the bill but does not support it as amended. Ms. Balducci concurred. Mayor Marshall noted Council consensus for this position.

Moving on, Ms. Carlson distributed a draft bill regarding the Growth Management Act that would affirm local government flexibility to accommodate urban density without being required to set a uniform minimum residential density. The bill is supported by both Republicans and Democrats, and by legislators from both eastern and western Washington.

Deputy Mayor Noble stated that opposition to the minimum density bill is being pursued by a group wishing to implement one solution for all jurisdictions without any public input or local citizen involvement.

Ms. Carlson said House Bill 1756 would require fire departments to establish service delivery objectives and to achieve the objectives at least 90 percent of the time. The bill creates an unfunded mandate for local governments and could create service liabilities that do not currently exist.

Mayor Marshall expressed concern that the legislation could require more fire stations and fire personnel in some communities, which would be funded by taxpayers. Deputy Mayor Noble does not support the legislation. Ms. Balducci questioned the effectiveness of the legislation if fire departments would be allowed to set their own service standards. Councilmembers were in agreement that the Bellevue Fire Department is already monitoring and managing its service levels in a professional and effective manner.

Turning to Senate Bill 5505 regarding liability for stormwater control, Ms. Carlson said the legislation appears to be written to address a problem in a specific city. It would create an unreasonable standard for cities with stormwater utilities and raises liability issues.

Responding to Mr. Degginger, Ms. Carlson said she will send him an update on the status of the condominium liability bill.

Dr. Davidson noted the draft letter to Governor Gregoire in Council's desk packet regarding watershed and salmon funding in the state budget. The letter was developed by some members of the Tri-County Coalition. He supports the letter and its request for continued state funding for salmon recovery programs. Mayor Marshall asked Councilmembers to forward their comments regarding the letter to Alison Bennett (Utilities) by Wednesday. If no one is opposed, the letter will be sent.

(d) Update on Municipal Court

Ms. Carlson reminded Council that the current municipal court contract with King County expires December 31, 2006. King County has been working on developing a court facilities and operations master plan. Strategic recommendations for the plan are nearly complete and include a recommendation that King County should continue to contract with cities to provide municipal court services. This is supported by County Executive Sims, the County Council, and District Court as well.

Ownership of the Surrey Downs district court facility is in the process of being transferred from King County to the City. However, court functions are not consistent with long-term plans for the site. Key issues regarding operational alternatives are location (regardless of whether the service is provided by the County or City), service quality, costs, and unknown terms of a possible future contract with King County.

Jocelyn Mathiasen, Assistant to the City Manager, reviewed the following three broad operational alternatives: 1) Extend the County contract (Surrey Downs facility, another Bellevue location, or outside of Bellevue), 2) Develop a new Bellevue Municipal Court (Surrey Downs or another location), or 3) Develop a regional court with neighboring jurisdictions. She noted that Bellevue has limited control over service quality if it continues to contract for court services.

Also, new facility costs are likely to be borne by Bellevue. The Bellevue Municipal Court option will have substantial start-up costs but the City would have control over operations and service levels. Ms. Mathiasen noted the potential for achieving economies of scale with the regional court option.

Ms. Mathiasen said staff is seeking Council's general feedback regarding:

1. Is Council interested in continuing the court at the Surrey Downs location for the short/mid-term?
2. If Surrey Downs is not a viable option, does Council support exploring facility options in Bellevue?
3. Would Council accept having court services located outside of Bellevue?

Staff recommends maintaining all options for consideration at this point. Staff further recommends negotiating a contract extension with King County while developing a plan for a municipal or regional court. In terms of the facility, staff recommends continuing to operate from the Surrey Downs location for the short/mid-term while evaluating mid/long-term facility options in Bellevue.

Mayor Marshall expressed support for maintaining the current court location while continuing to evaluate the options.

Mr. Degginger encouraged an in-depth analysis of the costs of long-term solutions.

Mrs. Marshall noted that Surrey Downs residents look forward to the development of a park on the City's newly acquired property. She asked staff to keep residents informed about the status of court services and park planning.

Mr. Chelminiak is in favor of moving the courts from the Surrey Downs location over the next few years. He feels a suitable alternative location can be found to house the two judges and 18 staff employed at the court. Mr. Chelminiak said the Probation Advisory Board is opposed to locating court services outside of Bellevue.

Mayor Marshall noted the need for a long-term transit layover facility in Bellevue. She suggested exploring the feasibility of developing a combined transit facility and court building.

Dr. Davidson is leaning toward the regional court option and favors not contracting with King County over the long term.

Ms. Balducci encouraged keeping all options on the table while continuing to analyze costs.

Following additional brief comments, Mayor Marshall summarized Council's interest in keeping the court in Bellevue and finding out more about the costs of various options.

4. Discussion of Upcoming Items

Mr. Chelminiak referred to an article in today's paper indicating that Tent City IV will be located in Kirkland for the next 90 days. He suggested directing staff to prepare a report for Council and the public regarding the legal issues associated with future potential efforts to locate a Tent City in Bellevue. He would like staff to review the permit process and consider incorporating public input into the process. Mr. Chelminiak would like to learn from Bothell, King County, and Woodinville about their experiences with Tent Cities. He is interested in hearing about safety and risks from the Police Chief and other staff. He encouraged a look at housing regulations, comparable laws regarding migratory workers, and associated health and sanitation issues.

Responding to Mayor Marshall, Council indicated support for scheduling a Study Session discussion regarding this issue.

Ms. Balducci said she has been receiving complaints from residents about abandoned shopping carts throughout the community. Councilmembers agreed to address this issue in the future.

Ms. Balducci said a citizen forwarded a request for Council to consider the impact of new, smaller wireless technologies that might provide more siting options. Mayor Marshall noted Council consensus to address this issue as well.

Mayor Marshall declared the meeting adjourned at 8:15 p.m.

Myrna L. Basich
City Clerk

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